IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.58 OF 2006

IN

WRIT PETITION NO.5945 OF 1988

Shrimant Bhimrao Chavan,

since deceased by his heirs &

legal representatives :

a) Smt.Chandrabhagabai Shrimant

Chavan & Ors. ...Petitioners

Versus

Bhimrao Daji Bagal & Ors. ...Respondents

.....

Mr.S.S.Patwardhan for Petitioners.

Mr.Ajay A.Joshi for Respondent No.1.

Mr.P.G.Chavan for Respondents 2, 3 & 4.

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CORAM: A.M.KHANWILKAR, J.

APRIL 19, 2006.

P.C.

1. Heard Counsel for the parties. For the nature of grievance made, it is not a case to review the final order passed by me on 14th June

2002 in Writ Petition No.5945 of 1988, whereby, the order of Tahsildar dated April 16, 1980 determining the reasonable price of the suit land as Rs.1,575/- (Rupees One Thousand Five Hundred Seventy-five) has been confirmed. (Indisputably, the said order of Tahsildar has been accepted by the landlords). Instead, it will be enough to clarify the position stated in Paragraph 1 of the order under review. It is mentioned therein that the matter before this Court in Writ Petition arose from tenancy proceedings for declaring the original Petitioner as deemed purchaser in respect of the suit land and for fixing the purchase price. That fact was recorded on the basis of submissions made across the Bar during the hearing of the said Writ Petition. However, now it is common ground that the Writ Petition before this Court was directed against the reference proceedings before the Tenancy Authority made to it by the Civil Court to decide whether the purchase price as agreed being Rs.2,750/- (Rupees Two Thousand Seven Hundred Fifty) was reasonable in the context of provisions of the Tenancy Act. The Tenancy Authority finally decided that issue, which decision was challenged only by the Petitioner tenant, who in turn, brought

the matter up to this Court in the form of said Writ Petition.

2. Be that as it may, at the hearing of the said Writ Petition Counsel appearing for the Petitioner tenant submitted that the Petitioner will not pursue the challenge and accept the reasonable price determined by the Tenancy Authority under its order dated 16th April 1980 at the rate of Rs.1575/- (Rupees One Thousand Five Hundred Seventy Five) in respect of the suit land. On that statement, nothing survived for consideration in the Writ Petition. Accordingly, Writ Petition came to be finally disposed of by me vide order recording that fact, which is subject matter of present Review Petition.

3. In other words, the challenge which was brought before this Court by way of Writ Petition was given up by the original Petitioner/tenant. It necessarily follows that the parties will have to abide by the consequence thereof. It is unnecessary for me to go into the effect of the order of the Tenancy Authority in the context of the decision of this Court between the parties in

the earlier round of litigation being Second Appeal No.1398 of 1965. Those aspects, if at all, may be relevant in the proceedings arising from the decision of this Court in said Second Appeal No.1398 of 1965.

4. In the present Petition, therefore, I shall confine to the incorrect statement of fact recorded in my order under review. Correction of that fact will not in any way affect the order of disposing said Writ Petition and confirming the order of Tahsildar dated April 16,1980. Therefore, to obviate any confusion, it is clarified that the statement recorded in the order under review that the Writ Petition brought before this Court arose from proceedings before the Tenancy Authority to declare the tenant as deemed purchaser in respect of the suit land is incorrect; whereas, the correct position is that the Writ Petition arose from the order passed by the Tenancy Authority in reference proceedings for deciding the issue whether the agreed price between the parties was not reasonable price.

5. Besides, the observation made in the penultimate Paragraph of the order under review that:

> "Since this Petition is disposed of, the Petitioner may now proceed to deposit the purchase price as per the time prescribed by law, if already not done and, the authorities may take consequential steps in accordance with law" -

shall stand deleted. This is so because the reference now having been finally answered by the Tenancy Authority and confirmed up to this Court, the same will have to be forwarded to the Civil Court for proceeding further on the basis of the decision of this Court in Second Appeal No.1398 of 1965.

6. Review Petition is disposed of on the above terms.

A.M.KHANWILKAR, J.